

**PROGRAM OPPORTUNITY NOTICE  
FOR  
SCHOOL DISTRICTS  
LOWER-EMISSION SCHOOL BUS PROGRAM**



**PON 500-00-510  
Bus Replacement and Infrastructure  
April 12, 2001**

## **Table of Contents**

<b>WELCOME LETTER</b>	<b>2</b>
<b>INTRODUCTION</b>	<b>4</b>
Who Can Apply and Where?	
Who Do I Contact?	
<b>TIMETABLE</b>	<b>4</b>
<b>CONTRACT PROVISIONS</b>	<b>5</b>
School Bus Replacement Criteria Overview	
Infrastructure Criteria Overview	
Contract Agreements	
<b>FUNDING ALLOCATIONS</b>	<b>6</b>
School Bus Funding	
Match Fund Requirement	
Authorizing Resolution	
Disbursement of Funds	
<b>PROJECT IMPLEMENTATION</b>	<b>8</b>
Project Selection and Award of Funds	
Project Completion Deadlines	
Monitoring and Reporting	
<b>APPLICATION FORMS FOR BUS REPLACEMENT</b>	<b>10-11-12</b>
<b>APPLICATION FORM FOR FUEL INFRASTRUCTURE</b>	<b>13</b>
<b>AWARD AND AUTHORIZATION FORM</b>	<b>14</b>
<b>APPENDIX 1</b>	<b>A-1</b>
<b>APPENDIX 2</b>	<b>A-2</b>

**CALIFORNIA ENERGY COMMISSION**

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512



TO: LOCAL EDUCATIONAL AGENCIES

I would like to invite you to submit an application to the California Energy Commission (Energy Commission) and California Air Resources Board (CARB) Lower-Emission School Bus Program.

More than forty-four percent of school districts buses are older than 13 years. Twelve percent of the school bus fleet is older than 23 years and were built before federal safety standards went into effect. These older buses, manufactured before more stringent NOx engine standards and before any engine standards for particulate were in effect, emit 60 to 70 times more smog-forming pollutants and hundreds of times more toxic air contaminants than today's passenger cars. Replacing older school buses will result in improved public health and safety.

In the fiscal year of 2000-2001 state budget, Governor Gray Davis provided \$50 million to implement programs to help school districts replace and retrofit school buses. The CARB will oversee the programs and develop program guidelines. The CARB will use \$12.5 million of the funds to implement a school bus retrofit program. The remaining \$37.5 million will be administered by the Energy Commission or by participating air districts for the school bus replacement program. From the \$37.5 million, \$12.5 million will be allocated to low emission, intermediate diesel school buses and \$25 million for alternative fuel school buses.

For your convenience I have enclosed a copy of the Bus Replacement and Infrastructure, Program Opportunity Notice. If you have any questions regarding this program or application notice please contact Bernard Treanton at (916) 654-4512.

Again, I encourage you to apply to what I believe is an exciting program that could benefit your school transportation program.

Sincerely,

Susan Brown, Manager  
Transportation Technology and Fuels Office

## INTRODUCTION

In the fiscal year 2000-2001 state budget, Governor Gray Davis provided \$50 million to implement a program to help school districts replace and retrofit older school buses. The California Air Resources Board (CARB) will oversee the program and has developed program guidelines. The \$37.5 million school bus replacement program directs \$25 million to fund alternative fuel buses and \$12.5 million to fund intermediate diesel buses, and will be administered by the California Energy Commission (Energy Commission) or by participating air districts.

Funding for this Program Opportunity Notice (PON) is contingent upon approval of an Interagency Agreement between the Energy Commission and The California Air Resources Board.

### Who Can Apply and Where?

School districts located in the following air districts submit an application:

- San Joaquin Valley Air Pollution Control District,
- Santa Barbara County Air Pollution Control District,
- Mojave Desert Air Quality Management District,
- Antelope Valley Air Pollution Control District, and
- The remaining air districts which have not been specifically identified by CARB to receive or administer their own school bus replacement funds should apply to the Energy Commission.

### ATTENTION:

**If your school district is located in one of the following air districts:** South Coast Air Quality Management District, Bay Area Air Quality Management District, Monterey Bay Unified Air Pollution Control District, Ventura County Air Pollution Control District, San Diego County Air Pollution Control District, or Sacramento Metro Air Quality Management District, **you must submit your application to the air district where you are located.**

**If your school district is NOT located in one of the above air districts, your application must be sent to the Energy Commission:**

**This document is an application for school districts wishing to apply, to the Energy Commission for funding for school bus replacements and alternative-fuel Infrastructure. School districts must apply for funding to the Energy Commission or air district that is administering the program in their respective jurisdictions.**

**Note: The Lower Emission School Bus Program Guidelines, as approved by the CARB on December 7, 2000, are available at [www.arb.ca.gov/homepage.html](http://www.arb.ca.gov/homepage.html)**

### **Whom Do I Contact?**

Questions or clarifications about this PON should be directed to:

ELIZABETH STONE, CONTRACT OFFICER  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-5125  
FAX: (916) 654-4423

This PON is available through the Commission's Web Site at:  
[www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts). Copies may be obtained by writing or calling:

California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-4788  
FAX: (916) 654-4423

### **Timetable**

<b>ACTIVITY</b>	<b>DATE</b>
PON Release	April 16, 2001
<b>Applications deadline, 5:00 p.m.</b>	<b>May 15, 2001</b>
Bus and Infrastructure awards	June 13, 2001
Funding agreements with School Districts signed and executed	August 28, 2001
Bus Orders Placed	August 10, 2001
Alternative-fuel station contracts with providers executed by school districts	September 28 2001
Unencumbered funds may be reallocated	February 22, 2002
Submit contract data and information	February 22, 2002
New buses delivered and infrastructure completed	June 7, 2002
Reimbursement requests submitted	June 21, 2001
Final Report due to CARB and CEC	September 2, 2002

# CONTRACT PROVISIONS

## A. School Bus Replacement Criteria Overview

1. California public school districts that own and operate school buses, including school districts under provisions of a joint power authority, can apply for school bus funds. Specific information as to the school bus requested shall be provided in the application.
2. Only replacement buses will be funded. Fleet expansion buses are not eligible for funding.
3. All new buses must have a manufacturer Gross Vehicle Weight Rating (GVWR) greater than 14,000 pounds and powered by a heavy-duty engine (CARB classification). All new buses must meet CARB guidelines.
4. Heavy-duty alternative-fuel engines must be certified to the CARB optional, reduced-emission NOx standard of 2.5 g/bhp-hr and a 0.03 g/bhp-hr PM level, or diesel engines to 3.0 g/bhp-hr NOx and 0.01 g/bhp-hr PM levels.
5. New buses that operate on any fuel other than gasoline can be requested if required engine emissions standards are met. Diesel buses funded must operate on low-sulfur diesel fuel (maximum sulfur content of 15ppm by weight)
6. Availability of required fuels by the time of delivery of the buses shall be documented. Provisions shall be made to avoid possible mis-fueling of any funded diesel buses.
7. Pre-1987 replacement Buses Criteria
  - All pre-1987 replacement buses shall be in current use and have current CHP certification. The application form calls for specific information related to the replaced bus.
  - All pre-1987 replacement buses shall be owned and operated by the recipient school district for a minimum of five (5) years.
  - Priority shall be given to pre-1977 model year replacement school buses. Any pre-1977 school buses in any given fleet shall be replaced first. Both heavy-duty diesel and heavy-duty gasoline (without catalytic converter) are eligible. These buses shall be destroyed upon replacement and documented.
  - All pre-1987 replacement buses with a GVWR greater than 14,000 pounds are eligible.
  - Where fleets contain too few or no pre-1977 replacement buses, any heavy-duty diesel or heavy-duty gasoline (without catalytic converter) bus, model year 1977 through 1986, are eligible for replacement. These buses shall be either destroyed or replace a pre-1977 bus from any California fleet. The replaced bus shall then be destroyed and documented.

## **B. Infrastructure Criteria Overview**

1. New fueling capacity requested will be directly related to the capacity needed by the new alternative-fuel buses awarded through this program.
2. The need for alternative fueling infrastructure shall be documented as called for in the application.
3. Funding may be used to purchase recharging equipment, new slow-fill alternative fuel equipment or to buy down the cost of a new public access fast-fill alternative fuel fueling facility.

## **C. Agreements**

As soon as school districts are awarded funding for buses or infrastructure they shall enter into a Contract with the Energy Commission that specifies all conditions of the award. Please see Appendix 2.

# **FUNDING ALLOCATIONS**

## **A. School Bus Funding**

1. The state Department of General Services (DGS) maintains a state bid list (# 1-00-23-12-01) that lists prices of various school buses (see Appendix 1). That list sets the upper limit of the bus price that the Energy Commission will pay (i.e. 75% of DGS contract list). Although use of DGS services is not mandatory, funding requested for purchase of a bus shall be consistent with the prices (including taxes and fees) and descriptions on the current state bid list. With the exception of the purchase and installation of seat belts and particulate matter traps (intermediate diesel), the school district is responsible for the cost of any options not included in the prices on the list. Funding shall include prorated state taxes and DGS fees.
2. The application shall document the basis for the amount of funding requested for purchase of alternative fuel infrastructure. Amounts requested for funding shall be based on the cost of slow-fill stations. Infrastructure awards will not exceed an amount equal to 10 percent of the new bus funding awarded to the applying school district, and will be included in the bus award if needed.

## **B. Match Fund Requirement**

1. School districts shall provide 25 percent of the total cost (including taxes and DGS fees) for each bus purchased, up to a \$25,000 maximum per bus except in cases where the school district qualifies for reduced match funding.
2. A school district can qualify for reduced match funding if its fleet is comprised of at least 20 percent pre-1977 school buses and if at least one of its pre-1977 buses operates a

minimum of 10,000 miles per year. Then the school district shall only provide 15 percent (including taxes and DGS fees) in match funding for each bus purchased up to a maximum of \$15,000 per bus. The reduced match requirement applies only to a new bus replacing pre-1977 buses.

3. School districts shall attach copies of the current California Highway Patrol (CHP) bus certificates to substantiate that the pre-1987 bus qualifies as an in-use bus. Also school districts that request reduced match funding shall attach the CHP certificate of any bus traded for replacement to their application.
4. Funds for alternative-fuel refueling infrastructure (up to 10% of school bus funds) may also be awarded to a school district. Awarded funds may only provide a portion of the necessary funds to complete the infrastructure project. The school district shall provide all funds required for completion of purchase and installation of alternative fuel infrastructure equipment. (See Timetable, Page 4).
5. The source of match funding for bus purchases and infrastructure shall be documented and attached to this application. If grant funds are being used as match funding, detailed information on required use of those funds shall be included.

**Notice:** A list of school district bus fleets having 20% or more pre-1977 heavy-duty school buses is available on the Air Resources Board Web Site in Appendix E of the Lower Emission School Bus Program. [www.arb.ca.gov/msprog/schoolbus/schoolbus.htm](http://www.arb.ca.gov/msprog/schoolbus/schoolbus.htm)

#### **C. Authorizing Resolution**

A duly signed school board resolution authorizing participation in the program and school district's cost share of the buses shall be submitted with the application. Applications may be disqualified if the board resolution is not received by 5:00 p.m. (See Timetable, Page 4).

#### **D. Disbursement of Funds**

1. The school bus program's share of the bus and infrastructure funding shall be paid directly to the vendor via assignment of payment and shall include sales taxes and DGS contract fees (if applicable).
2. Funds will be paid at the time of vehicle delivery to and acceptance by the school district. Proof of vehicle delivery must accompany any request for payment of approved funds. All requests for payment must be received no later than 5:00 p.m. (See Timetable, Page 4). Proof of replaced bus destruction shall be required within 30 days of the school district's acceptance of bus.
3. Funds will be paid at the time of completion of the alternative-fuel refueling facility. Proof of completion shall accompany any request for reimbursement of approved

funds. All requests for reimbursement must be received by 5:00 p.m. (See Timetable, Page 4).

## **PROJECT IMPLEMENTATION**

### **A. Project Selection and Award of Funds**

1. School district applications must be submitted to the Energy Commission's Contracts Office by 5:00 p.m. on May 14, 2001 and will be verified for funding eligibility.
2. Qualifying applications will be separated into two categories 1) alternative fuels and 2) low-emission diesel. The school district shall identify the quantity and fuel type of the buses they are applying for through this program. School districts may apply for buses in both categories.
3. The Energy Commission will award funds in the following five separate geographic areas:
  - 1) San Joaquin Valley Air Pollution Control District,
  - 2) Santa Barbara County Air Pollution Control District,
  - 3) Mojave Desert Air Quality Management District,
  - 4) Antelope Valley Air Pollution Control District, and
  - 5) The remaining air districts which have not been specifically identified by CARB to receive or administer their own school bus replacement funds.
4. School buses will be awarded through the following lottery process.
  - Each qualified application will be assigned a number, which will be placed into the appropriate fuel category (i.e. alternative fuel or diesel).
  - The numbers will be drawn at random to determine the school districts placement in line for receiving buses.
  - Buses will then be awarded by fuel type beginning with the first number selected and continuing through to the last number selected. A maximum of one bus will be awarded per school district.
  - This process will be repeated until a school district receives all the buses it has requested and/or all the funds have been awarded.

### **B. Project Completion Deadlines**

1. For this first round of funding, school bus orders must be placed to the dealer no later than August 10, 2001.
2. Contracts with providers of alternative-fuel infrastructure must be executed by September 28, 2002.

### **C. Monitoring and Reporting**

1. School districts shall notify the Energy Commission Contract Manager when funded buses are ordered and again when the buses arrive on site.
2. School districts shall notify the Energy Commission when any alternative-fuel equipment is ordered or construction contracts signed, and then when the equipment is operating.
3. School districts receiving funding for diesel buses shall notify the Energy Commission when contracts are signed for the purchase of low-sulfur fuel. School districts shall provide the Energy Commission with the low sulfur fuel s storage arrangement as well as the mechanical methods to be used to avoid mis-fueling the intermediate diesel school buses funded by this program.
4. School districts shall provide CHP certificates to the Energy Commission and proof that the buses removed from service have been scrapped. This includes the method of disposal for any 1977-1986 buses that are not destroyed.

## Application Form for Bus Replacement

### (Section 1)

#### For Lower Emission School Bus Replacement Program

1. SCHOOL DISTRICT NAME: \_\_\_\_\_
  2. STREET ADDRESS: \_\_\_\_\_
  3. City: \_\_\_\_\_ County: \_\_\_\_\_ Zip \_\_\_\_\_
  4. BOARD RESOLUTION: must include approval to participate in this program, name of a contact person responsible for the program, and authorization to pay the matching funds.
    - AIR DISTRICT JURIDICITION: \_\_\_\_\_
    - IF CONSORTIUM: Yes\_\_\_\_ No\_\_\_\_ (Attach List)
    - CONTACT PERSON:
      - Name/Title/Position: \_\_\_\_\_
      - Phone Number: \_\_\_\_\_ FAX NUMBER: \_\_\_\_\_
      - E-mail Address: \_\_\_\_\_
    - COPY OF California Highway Patrol BUS CERTIFICATES: (Attach)
    - BUS TYPE AND NUMBER. CNG:\_\_\_\_, DIESEL:\_\_\_\_\_, OTHER\_\_\_\_\_
    - TOTAL COST OF BUS(ES) REPLACEMENT ( Including taxes and fees):
    - SCHOOL DISTRICT MATCHING FUNDS TOTAL: \_\_\_\_\_
      - From School District Budget: \_\_\_\_\_
      - From Grants or other Sources: \_\_\_\_\_
- (Attach documentation explaining in full detail the source of matching funds.)
- ARE YOU APPLYING FOR REDUCED MATCH FUNDING? YES\_\_\_ NO\_\_\_
  - ADDITIONAL INFORMATION :
- (Attach explanation on the availability of fuel and your refueling capability)

**Note: Please answer all questions**

For Energy Commission use Only		
Application #::	Date Rec d:	\$ Fund Req d:

**REPLACEMENT BUS**

## INFORMATION FORM

### (Section 1A)

1	2	3	4	5	7	8	9
<u>SD</u> <u>No.</u>	<u>VIN</u> <u>Number</u>	<u>Type</u> <u>C,D</u>	<u>GVWR</u>	<u>Miles Last</u> <u>12 months</u>	<u>Year</u> <u>Built</u>	<u>Fuel</u> <u>Type</u>	<u>Mfg.</u>

**Note: Please complete one row for each bus to be replaced.**

## NEW BUSES REQUESTED

### INFORMATION FORM (Section 1B)

<u>DGS #</u>	<u>Fuel Type</u>	<u>Duty Rate</u>	<u>Chassis Model</u>	<u>Type C, D</u>	<u>GVWR</u>	<u>Bus Base price</u>

**Note: Please Fill one row for each bus to be replaced**

**Note: All DGS information must be from contract 1-00-23-12-01 (7/28/00 to 7/28/20). See price list summary in APENDIX 1.**

**Note: Base price (either from DGS or from Vendor) shall include the fuel option cost (i.e., electric, alternative fuel, diesel with PM trap) and also include seat belts (if requested).**

## Application Form for Infrastructure

### (Section 2)

#### Lower Emission School Bus Replacement and Infrastructure Program

**Note:** Please answer all questions or disregard form if no infrastructure is required.

1. LOCAL UTILITY COMPANY NAME: \_\_\_\_\_
2. REQUEST FOR: FACILITY UPGRADE: \_\_\_\_\_ OR NEW FUELING STATION: \_\_\_\_\_
3. AMOUNT OF INFRASTRUCTURE FUNDS REQUESTED: \$ \_\_\_\_\_
4. NUMBER OF BUSES REQUESTED: \_\_\_\_\_
5. DISTANCE TO NEAREST CNG/ELEC FUELING STATION (In Miles): \_\_\_\_\_
6. EXPLAIN WHY YOU ARE UNABLE TO FUEL OFF-SITE AND WHY YOU NEED A FUELING STATION: (use separate page.)

#### **EXISTING FUELING STATION:**

7. SIZE OF COMPRESSOR OR ELECTRIC CHARGER (In CFM/ kW) \_\_\_\_\_
8. ALTERNATIVE FUEL STORAGE CAPACITY (GALLONS): \_\_\_\_\_
9. NUMBER OF ALTERNATIVE FUEL BUSES PRESENTLY ON SITE: \_\_\_\_\_
10. NUMBER OF CNG/ELEC FUELING POSITIONS: \_\_\_\_\_
11. INDICATE GAS PRESSURE AND VOLTAGE AVAILABLE AT FUEL SITE: \_\_\_\_\_
12. IS THE STATION ACCESSIBLE TO PUBLIC? YES: \_\_\_\_\_ NO: \_\_\_\_\_

#### **NEW FUELING STATION:**

13. CFM CAPACITY TO ACCOMMODATE REQUESTED BUSES: \_\_\_\_\_
14. NUMBER OF CNG POSTS (2 hoses) REQUESTED: \_\_\_\_\_
15. IS THE STATION GOING TO BE ACCESSIBLE TO PUBLIC? YES: \_\_\_\_\_ NO: \_\_\_\_\_
17. IS THIS AN EXPANSION OF EXISTING FAST FILL STATION? (Explain)
18. BUY DOWN PART OF NEW FAST FUEL STATION. (Provide justification)

For Energy Commission use Only		
Application #:	Date Received:	\$ Fund Requested:

**Lower-Emission School Bus Program**

**APPLICATION & AUTHORIZATION FORM  
Fiscal Year 2000-2001 (Section 3)**

Your fiscal year 2000-2001 application for funding under the Lower-Emission School Bus Program: Replacement Buses, has been approved as follows:

**School District:** \_\_\_\_\_

**Award:** \_\_\_\_\_

**Required Match Amount:** \_\_\_\_\_

**Contract Number:** \_\_\_\_\_

**Tax Payer I.D.:** \_\_\_\_\_

You are authorized to participate in the program according to the requirements described in the following documents, which are attached and incorporated as part of this PON application. To apply, use the following forms:

- For bus replacement: SECTION 1, 1A, and 1B
- For infrastructures: SECTION 2
- For authorization: SECTION 3 , with School Board Resolution attached

The undersigned parties agree to the terms and conditions as set forth in this PON application. The undersigned parties certify under the penalty of perjury that they are duly authorized to bind the parties to this application and that all information included in this application are true.

**California Energy Commission:**

**School District:**

\_\_\_\_\_  
**Signature of Authorized Official**

\_\_\_\_\_  
**Signature of Authorized Official**

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX 1**

**This price sheet is only a guide. Your price may vary based on options and manufacturer**

<b>All buses purchased in this program must be 14,000 pounds or greater</b>													
<b>DGS</b>	<b>Suplier</b>					<b>Chassis</b>	<b>Lbs</b>	<b>Mfg.</b>	<b>Mfg.</b>	<b>Dealer \$</b>	<b>Meet ARB</b>	<b>Criteria</b>	<b>Total</b>
<b>Item#</b>	<b>Number</b>	<b>Dealer</b>	<b>Bus Type</b>	<b>Bus Use</b>	<b>Engine</b>	<b>Model</b>	<b>GVWR</b>	<b>Chassis</b>	<b>Body</b>	<b>Base Price</b>	<b>CNG\$</b>	<b>LEDiesel</b>	<b>Price \$</b>
8	194980	AZ Bus sale	Type D	Transit	CNG	2409	20000	BB	BB	\$69,217	\$ 23,572		\$92,789
9	194980	AZ Bus sale	Type D	Transit	CNG	2504	21000	BB	BB	\$69,694	\$ 23,572		\$93,266
10	194980	AZ Bus sale	Type D	Transit	CNG	2803	25500	BB	BB	\$71,696	\$ 23,572		\$95,268
11	194980	AZ Bus sale	Type D	Transit	CNG	3000	26500	BB	BB	\$76,464	\$ 23,572		\$100,036
12	194980	AZ Bus sale	Type D	Transit	CNG	3211	27500	BB	BB	\$78,431	\$ 23,572		\$102,003
13	194980	AZ Bus sale	Type D	Transit	CNG	4308	27500	BB	BB	\$84,735	\$ 23,572		\$108,307
14	194980	AZ Bus sale	Type D	Transit	CNG	3707	30000	BB	BB	\$85,893	\$ 23,572		\$109,465
17	194980	AZ Bus sale	Type D	Transit	CNG	3904	36200	BB	BB	\$101,660	\$ 29,616		\$131,276
18	194980	AZ Bus sale	Type D	Transit	CNG	3905	36200	BB	BB	\$102,284	\$ 29,616		\$131,900
33	666089	Calif Bus sale	Type D	Transit	CNG	140HS	34000	Thomas	Thomas	\$83,468	\$ 43,872		\$127,340
34	666089	Calif Bus sale	Type D	Transit	CNG	140HS	34000	Thomas	Thomas	\$83,462	\$ 43,872		\$127,334
35	666089	Calif Bus sale	Type D	Transit	CNG	140HS	36200	Thomas	Thomas	\$87,541	\$ 39,601		\$127,142
36	666089	Calif Bus sale	Type D	Transit	CNG	140HS	36200	Thomas	Thomas	\$87,733	\$ 39,601		\$127,334
38	689963	West Coach	Type C	Conventional	Green Diesel	IC	20000	Inter'nall	Inter'nall	\$52,866		\$ 7,399	\$60,265
39	689963	West Coach	Type C	Conventional	Green Diesel	IC	21000	Inter'nall	Inter'nall	\$54,109		\$ 7,399	\$61,508
40	689963	West Coach	Type C	Conventional	Green Diesel	IC	25500	Inter'nall	Inter'nall	\$55,709		\$ 7,399	\$63,108
41	689963	West Coach	Type C	Conventional	Green Diesel	IC	26500	Inter'nall	Inter'nall	\$59,955		\$ 7,399	\$67,354
42	689963	West Coach	Type C	Conventional	Green Diesel	IC	27500	Inter'nall	Inter'nall	\$61,040		\$ 7,399	\$68,439
43	689963	West Coach	Type C	Conventional	Green Diesel	IC	27500	Inter'nall	Inter'nall	\$68,813		\$ 7,399	\$76,212
44	689963	West Coach	Type D	Transit	Green Diesel	FE	20000	Inter'nall	Inter'nall	\$60,282		\$ 7,399	\$67,681
45	689963	West Coach	Type D	Transit	Green Diesel	FE	21000	Inter'nall	Inter'nall	\$62,089		\$ 7,399	\$69,488
46	689963	West Coach	Type D	Transit	Green Diesel	FE	25500	Inter'nall	Inter'nall	\$62,447		\$ 7,399	\$69,846
47	689963	West Coach	Type D	Transit	Green Diesel	FE	26500	Inter'nall	Inter'nall	\$67,633		\$ 7,399	\$75,032
48	689963	West Coach	Type D	Transit	Green Diesel	FE	27500	Inter'nall	Inter'nall	\$68,518		\$ 7,399	\$75,917
49	689963	West Coach	Type D	Transit	Green Diesel	FE	27500	Inter'nall	Inter'nall	\$73,933		\$ 7,399	\$81,332
50	689963	West Coach	Type D	Transit	Green Diesel		30000	Inter'nall	Inter'nall	\$75,368		\$ 7,399	\$82,767
51	689963	West Coach	Type D	Transit	Green Diesel	RE	34000	Inter'nall	Inter'nall	\$89,071		\$ 7,399	\$96,470
52	689963	West Coach	Type D	Transit	Green Diesel	RE	34000	Inter'nall	Inter'nall	\$90,826		\$ 7,399	\$98,225
53	689963	West Coach	Type D	Transit	Green Diesel	RE	36200	Inter'nall	Inter'nall	\$94,527		\$ 7,399	\$101,926
54	689963	West Coach	Type D	Transit	Green Diesel	RE	36200	Inter'nall	Inter'nall	\$94,688		\$ 7,399	\$102,087
30													
	<b>Dealer #</b>		<b>Dealer Name</b>				<b>Address</b>				<b>Phone</b>		
	194980		AZ Bus Sales Inc.				Colton				909-781-7188		
	666089		California Bus Sales & Services Center				Fresno				559-266-0167		
	689963		West Coach Corp.				Chino				909-464-1025		

## APPENDIX 2

### GENERAL TERMS AND CONDITIONS APPLICABLE TO ALL SCHOOL DISTRICTS

#### 1. Purpose

The purpose of this Agreement is to set forth conditions and responsibilities for the School District participating in the Low Emission School Bus Program (the Program). Specific tasks to carry out this purpose are detailed in the "Work Statement," which is hereby expressly incorporated herein.

#### 2. Term

The term of this Agreement shall be from **XXXX XX**, 2001 to **XXXX XX**, 2002, but shall not become effective until approved by the Department of General Services (DGS).

#### 3. Interpretation

In the interpretation of this Contract, any inconsistencies between the terms hereof and the exhibits shall be resolved in favor of the Contract terms.

#### 4. Exhibits

The following exhibits are attached and hereby expressly incorporated in this Contract.

Exhibit A: Work Statement

Exhibit B: Budget

Exhibit C:

#### 5. Indemnification

School Districts agree to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by School Districts in the performance of this Agreement and from any and all claims or losses occurring or resulting to any person, firm or corporation who may be injured or damaged, from School Districts use, operation, servicing and maintenance of the engines and school buses.

6. Contract Funding

Funding for this Contract comes from 2000-2001 fiscal years. Funding shall be subject to the appropriation and availability for that purpose in the Interagency Agreement between the Energy Commission and the California Air Resources Board. In the event funds are not so available, the Commission shall have no further liability with regard to this Contract.

The Commission reserves the right to reduce the amount of the 2000/01 funding to an amount deemed appropriate in the event the Interagency Agreement budget does not provide full funding of Commission contracts. In this event, the Contractor and Commission Contract Manager shall meet and reach agreement on a reduced scope commensurate with the level of available funding.

7. Termination

Either party may terminate this within thirty (30) days after receiving written notice from the other party.

8. Excuse from Performance

The parties hereto shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of circumstances beyond their control, including, but not limited to, strikes and other labor disputes, wars, civil commotion, natural calamity, fire, equipment breakdown, failures or damage due to collision, or if the Commission is prohibited by law, regulation, judicial or administrative ruling or if sufficient funding for the program is not appropriated. In the event of any delay as aforesaid, the time for performance may be extended by mutual agreement for a period equal to the length of delay.

9. Modifications

This Agreement may be modified or amended by the parties in writing.

10. Extension

This Agreement may be extended by the parties upon mutual written agreement.

11. Contract Management

- A. Contractor and the agents and employees of Contractor, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State of California.

- B. \_\_\_\_\_ is designated the Project Director on behalf of Contractor. Contractor may change Project Director but the Commission reserves the right to approve any substitution of the Project Director. Contractor's key personnel may not be substituted without the Commission Contract Manager's prior written approval.
- C. Bernard Treanton is designated Commission Contract Manager. The Commission may change the Contract Manager by notice given Contractor at any time signed by the Contract Officer of the California Energy Commission.
- D. Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the Commission Contract Manager. In this connection, Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.
- E. Contractor will not be permitted to utilize Commission personnel for the performance of services which are the responsibility of Contractor unless such utilization is previously agreed to in writing by the Commission Contract Manager, and any appropriate adjustment in price is made. No charge will be made to Contractor for the services of Commission employees while performing, coordinating or monitoring functions.

12. Statement of Compliance

School Districts representative's signature affixed hereon and dated shall constitute a certification under the penalty of perjury under the laws of the State of California that the School District has, unless specifically exempted, complied with Government Code Section 12990 and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to the development, implementation, and maintenance of a non-discrimination program. School Districts agree not to unlawfully discriminate against any employee or applicants for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age (over forty).

13. Independence

School Districts and their agents, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of the State of California.

14. Assignment

- A. The only assignment authorized is the assignment of payment of the bus to the vendors. School districts shall assign the Energy Commission cost-share of the bus to the vendor that has been chosen by school districts to supply the bus. School

districts shall order and pay the vendor directly for their share of the cost including taxes and any additional cost of options the school district has chosen. Approved Assignment Form shall be signed and returned to the Energy Commission (Attachment 1).

- B. School districts shall assign the Energy Commission cost-share of the bus to the vendor that has been chosen by school districts to supply the bus (es). School districts shall order and pay the vendor directly for their share of the cost including taxes and any additional cost of options the school district has chosen. An approved Assignment Form shall be signed and returned to the Energy Commission (Attachment 1).
- C. Without the written consent of the State, this Agreement is not assignable by the School District, except as stated above, either in whole or in part, to any third party. This includes but is not limited to, any individual, any contractor or contract firm, any other school district or merged school district, or any other consortium or joint powers authority. Exceptions are listed above and in Exhibit A, Work Statement.

15. Amendment

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties, and no oral understanding or agreement not incorporated, shall be binding on any of the parties.

16. Payment

- A. The consideration to be paid Contractor, as provided in this Contract, shall be in compensation for all of Contractor's expenses incurred in performance, unless otherwise expressly so provided. Subject to each of the conditions listed below, the Commission agrees to pay Contractor for expenses incurred in the project in accordance with Exhibit C, "Budget." Total amount of this Contract shall not exceed \$\_\_\_\_\_.

Conditions:

- 1) Payment shall be based on Contractor's invoices, itemized in accordance with Exhibit C, "Budget."
- 2) No payment shall be made in advance of services rendered.
- 3) Payments shall not be made more frequently than monthly in arrears.

- 4) A request for payment must include an invoice with cost backup receipts (where appropriate) attached, evidence of progress, deliverables as required by the Contract, and written report prepared by the Contractor.
- 5) Each request for payment is subject to the Commission Contract Manager's approval, Commission Contracts Officer's approval, and audit by the Accounting Office.
- 6) Payments shall be made to Contractor only for undisputed invoices. An undisputed invoice is an invoice executed by the Contractor for services rendered to the Commission and for which additional evidence is not required to determine its validity. The Commission Contract Manager shall give written notice to the Contractor within 15 working days of receipt of a disputed invoice by using State of California Standard Form 209.
- 7) Invoices shall identify charges for Contract tasks, expenses and backup for expenses, equipment purchases and subcontractor invoices authorized by either this Contract or subsequent Work Authorizations.
- 8) The Contractor shall submit invoices, in duplicate, stating the Contract number, to:

California Energy Commission  
Accounting Office, MS-2,  
1516 9th Street, First Floor  
Sacramento, California 95814
- 9) The Commission shall make payment to the Contractor as promptly as fiscal procedures permit for performance under this Contract in accordance with applicable deliverable criteria as accepted by the Commission and in accordance with invoices submitted.
- 10) Payment is due to Contractor 45 days from the date a correct invoice is received in the office specified by the Commission.
- 11) Final invoice must be received by the Commission no later than 60 calendar days after the Contract termination date.

B. Taxes

The Commission will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Commission pursuant to this Contract. The State of California is exempt from Federal excise taxes.

17. Severability

If any provision of this Contract or its application is held invalid, that invalidity shall not affect other provisions of this Contract which can be given effect without the invalid provision, and to this end the provisions of the Contract are severable.

18. Travel and Per Diem

No travel and per diem shall be paid under this Agreement.

19. Nondiscrimination Clause

- A. During the performance of this Agreement, the School District and its subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age (over 40), or gender. The School District and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination. The School District and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Sections°12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections°7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The School District and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- B. The School District shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

20. Fueling Station Standards

It shall be the responsibility of the School District to ensure that any fueling facility constructed or caused to be constructed in performance of this Agreement shall conform to all materials compatibility and recognized standards as may be required for each fuel type. The School District shall maintain a detailed itemization of and retain all records relating to all equipment purchases relative to such installation. Such records shall be maintained for the term of this Agreement and shall be available for inspection or audit at any reasonable time by the Commission or its designee. If the School District will use an existing private refueling station, it shall be the responsibility of the School District to ensure that the station conforms to all materials compatibility and recognized standards as may be required.

The School District shall compile and maintain all records relating to equipment purchases relative to such installation for the term of this Agreement.

21. Insurance

A. If the School District has purchased insurance, the School District shall:

- 1) Add the Commission as additional insured to its applicable liability insurance policy or policies.
- 2) Furnish to the State a certificate of insurance stating that there is general liability insurance presently in effect for the School District of not less than \$5,000,000.00 per occurrence for bodily injury and property damage liability, combined, on an annual basis during the term of this Agreement.
- 3) Obtain and provide the Commission with current certificate(s) of insurance which must include the following two provisions:
  - a. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to DGS and the Commission.
  - b. The State of California, its officers, agents, employees and servants are included as additional insured, but only insofar as the operations under this Agreement are concerned.
- 4) Agree that the bodily injury and property damage liability insurance herein provided for shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, the School District agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of DGS and the School District agrees that no work or services shall be performed prior to the giving of such approval. In the event the School District fails to keep in effect at all times insurance coverage as herein provided, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.

B. If the School District is self-insured or partially self-insured, the following applies in addition to the above requirements:

- 1) The School District represents and warrants that the full faith and credit of the School District is pledged for the purpose of providing automotive and general liability coverage for the School District and each of its officers, agents, and employees during the term of this Agreement.
- 2) The School District certifies that the School District self-administers, defends, settles and pays third-party claims for bodily injury, personal injury, death and/or property damage. Protection under this program is warranted to meet or exceed \$5,000,000.00 per occurrence.

C. All Certificates of Insurance must:

1. Provide the School District's name, as indicated on this Agreement;
2. Provide the Agreement number as referenced in this Agreement;
3. Provide the name of the Program in which the School District is participating;
4. Provide a contact person for questions regarding the Certificate of Insurance, and telephone number;
5. Be mailed directly to:

California Energy Commission  
Contracts Office  
Elizabeth Stone, contract officer  
1516 Ninth Street, MS-18  
Sacramento, CA 95814

D. Questions regarding Certificates of Insurance should be directed to the Commission's Contracts Office at (916) 654-4392.

22. National Labor Relation Board Certification

The School District, by signing this Agreement, swears under penalty of perjury that no more than one final un-appealable finding of contempt of court by a Federal Court has been issued against the School District within the immediately preceding two year period because of the School District's failure to comply with an order of a Federal Court which directs the School District to comply with an order of the National Labor Relations Board (Public Contract Code Section 10296).

23. Ownership of the Vehicles

In accordance with Education Code Section 17911.5(a), title to the bus(es) awarded under this Agreement shall be in the name of the School District. The School District agrees not to dispose of any School Bus awarded during the Program for a period of five (5) years.

24. Drug-Free Work Place Certification

By signing this Agreement, the School District hereby certifies under penalty of perjury under the laws of the State of California that the School District will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- 1) Publish a statement notifying employees that unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited and specifying action to be taken against employees for violations, as required by Government Code Section 8355(a).
- 2) Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees of the following:
  - a. the dangers of drug abuse in the workplace;
  - b. the person s or organization s policy of maintaining a drug-free workplace;
  - c. any available counseling, rehabilitation and employee assistance programs; and
  - d. penalties that may be imposed upon employees for drug abuse violations.
- 3) Provide, as required by Government Code Section 8355(c), that every employee who works under this Agreement:
  - a. will receive a copy of the School District s drug-free policy statement; and
  - b. will agree to abide by the terms of the School District s statement as a condition of employment under this Agreement.

25. Worker's Compensation Insurance

- A. The School District hereby warrants that it carries Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Agreement and agrees to furnish to the State satisfactory evidence thereof at any time the State may request.

or

- B. The School District hereby warrants it is permissively self insured for worker's compensation under the laws of the State of California.

## 26. Disputes

In the event of a dispute or grievance between the School District and the Commission, the following procedures shall govern both parties:

The School District and the Commission designated contacts should first attempt to reach a mutually agreeable solution by discussing the problem informally with each other and the Commission Executive Office. If the problem cannot be resolved informally, the party raising a dispute or grievance must direct the grievance together with any evidence, in writing, to the Commission Contracts Office. The grievance must state the issue(s) in dispute, the legal authority or other basis for the party's position, and the remedy sought. The Commission Contracts Office and the Transportation Technology and Fuels Office Manager must make a determination within ten (10) working days after receipt of the written grievance. The Contracts Office shall respond in writing to the aggrieved party, indicating the decision and the reasons therefore. If the grievance cannot be resolved at this stage, binding arbitration shall be sought. Each party shall provide written notice to the other of an intention to exercise this provision. The grievance shall be resolved by a single arbitrator mutually selected by the parties. The arbitrator shall determine performance required under this Agreement and the parties' claims for monetary compensation or damages, but shall not have the power to enlarge or diminish any provisions of this Agreement. Any decision of the arbitrator shall be specifically enforceable under California law. The cost of the arbitrator shall be borne equally by the parties.

### A. Binding Arbitration

Should the Commission's Dispute Resolution procedure identified in paragraph A. above fail to resolve a contract dispute or grievance to the satisfaction of the Contractor, the Contractor may elect to have the dispute or grievance resolved through binding arbitration. The Commission may also elect to have any contract dispute or grievance resolved through binding arbitration. The arbitration proceeding shall take place in Sacramento County, California, and shall be governed by the commercial arbitration rules of the American Arbitration Association (AAA) in effect on the date the arbitration is initiated. The dispute or grievance shall be resolved by one (1) arbitrator who is an expert in the particular field of the dispute or grievance. The arbitrator shall be selected in accordance with the aforementioned commercial arbitration rules. The decision rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. The demand for arbitration shall be made no later than six (6) months after the date of the contract's termination, irrespective of when the dispute or grievance arose, and irrespective of the applicable statute of limitations for a suit based on the dispute or grievance.

The cost of arbitration shall be borne by the parties as follows:

- 1) The AAA s administrative fees shall be borne equally by the parties;
- 2) The expense of a stenographer shall be borne by the party requesting a stenographic record;
- 3) Witness expenses for either side shall be paid by the party producing the witness;
- 4) Each party shall bear the cost of its own travel expenses;
- 5) All other expenses shall be borne equally by the parties, unless the arbitrator apportions or assesses the expenses otherwise as part of his or her award.

At the option of the parties, any or all of these arbitration costs may be deducted from any balance of Contract funds. Both parties must agree, in writing, to utilize contract funds to pay for arbitration costs.

## 27. Termination

### A. Failure to Perform

The Commission may terminate this Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants at the time and in the manner provided in this Contract. In the event of a termination the Commission may proceed with the work in any manner deemed proper by the Commission. The cost to the Commission shall be deducted from any sum due the Contractor under this Contract, and the balance, if any, shall be paid the Contractor upon demand.

### B. Bankruptcy

In the event proceedings in bankruptcy are commenced against the Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies, then the Commission may terminate this Contract and all further rights and obligations, by giving five (5) days notice in writing. It is recognized by the parties that equipment purchased by Contractor or the Commission for this project shall have lien rights held in the name of the Commission which shall retain lien rights until the Contractor either returns the equipment to the Commission or purchases it as is provided by the terms of this Contract.

### C. 30-Day Cancellation Clause

Either party may, at its option, terminate this Contract at any time upon giving thirty (30) days advance notice in writing from the other party. In this event, both parties agree to use all reasonable efforts to mitigate its' expenses and obligations. In such event, the Commission shall pay Contractor for all satisfactory services rendered and expenses incurred before the notice of termination which could not by reasonable efforts of Contractor have been avoided, but not in excess of Contract maximum payable. In such event, Contractor agrees to relinquish possession of equipment purchased for this project to the Commission, or Contractor may, with approval of the Commission, purchase the equipment as provided by the terms of this Contract.

The Commission in lieu of terminating this Contract, shall have the right to require the Contractor to assign its rights and obligations under this Contract to the party or parties chosen by the Commission at its sole discretion.

The Commission may exercise this right pursuant to the above paragraph after a determination by the Executive Director of the Commission that the assignment is in the best interest of the Commission. The Contractor agrees to execute said agreement immediately upon 15 days written notice to the Contractor from the Commission.

D. Event of Breach

In the event of any breach of this Contract, the Commission may, without prejudice to any of its other legal remedies, terminate this Contract upon five (5) days written notice to the Contractor. In the event, the Commission shall pay Contractor only the reasonable value of the services rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of Contract maximum payable.

E. Gratuities

The Commission may, by written notice to the Contractor, terminate the right of Contractor to proceed under this Contract if it is found, after notice and hearing by the Commission or by Executive Director of the Commission or his duly authorized representative, that gratuities were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Commission, with a view toward securing a contract or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of this Contract.

In the event this Contract is terminated as provided in this section, the Commission shall be entitled to (1) pursue the same remedies against Contractor as it could pursue in the event of the breach of the Contract by the Contractor, and (2) exemplary damages in an amount which shall be not less than three nor more than ten times the cost incurred by the Contractor in providing any such gratuities to any such officer or employee, as a penalty, in addition to any other damages to which it may be entitled by law.

The rights and remedies of the Commission provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

28. Notice

Notice to either party may be given by certified mail properly addressed, postage fully prepaid, to the address listed below for each respective party. Notice shall be effective when received, as indicated by post office records, or if deemed undeliverable by post office, such notice shall be effective nevertheless fifteen (15) days after mailing.

Energy Commission

Contracts Office

1516 9<sup>th</sup> Street, MS-18

Sacramento, California 95814

Contractor

(see Page 1 of Contract)

Alternatively, notice may be given by personal delivery to the party at the address designated. Notice shall be deemed effective when delivered unless a legal holiday for State offices commences during the 24-hour period, in which case the effective time of the notice shall be postponed 24 hours for each such intervening day.

29. Waiver

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided therein or by law. The failure of the Commission to enforce at any time any of the provisions of this Contract, or to require at any time performance by Contractor of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Contract or any part of it or the right of the Commission to thereafter enforce each and every such provision.

30. Conflict of Interest

The Commission Contract Manager and Commission General Counsel's Office shall determine what constitutes a potential conflict of interest. The Commission reserves the right to redirect work and funding on a project if the Commission determines that there is a potential conflict of interest.

31. Workers' Compensation Insurance

Contractor hereby warrants that it carries Worker's Compensation Insurance for all of its employees who will be engaged in the performance of this Contract, and agrees to furnish to the Commission satisfactory evidence of this insurance at any time the Commission may request.

32. National Labor Relations Board Certification

Contractor, by signing this Contract, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a Federal Court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a Federal Court which orders the Contractor to comply with an order of the National Labor Relations Board (Public Contract Code Section 10296).

33. Statement of Compliance

The Contractor's signature to this Contract, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the Contractor has, unless specifically exempted, complied with Government Code Section 12990 and California Code of Regulations, Title 2, Div 4, CH 5 in matters relating to the development, implementation and maintenance of a nondiscrimination program. The Contractor agrees not to unlawfully discriminate against any employee or applicants for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, sex or age (over forty).

34. Drug-Free Workplace Certification

By signing this Contract, the Contractor hereby certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- B. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b) to inform employees about all of the following:
  - 1) The dangers of drug abuse in the workplace;
  - 2) The person's or organization's policy of maintaining a drug-free workplace;
  - 3) Any available counseling, rehabilitation and employee assistance programs; and
  - 4) Penalties that may be imposed upon employees for drug abuse violations.
- C. Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed Contract:
  - 1) Will receive a copy of the company's drug-free policy statement; and
  - 2) Will agree to abide by the terms of the company's statement as a condition of employment on the Contract.

35. Americans With Disabilities Act

By signing this Contract, Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disability, as well as applicable regulations and guidelines issued pursuant to the ADA.

36. Law Governing

It is hereby understood and agreed that this Contract shall be governed by the laws of the State of California as to interpretation and performance.

37. Contract is Complete

Other than as specified herein, no document or communication passing between the parties to this Contract shall be deemed as part of this Contract.

38. Captions

The clause headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They do not purport, and shall not be deemed, to define, limit, or extend the scope or intent of the clauses to which they appertain.

39. Prior Dealings, Custom or Trade Usage

In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of the terms or provisions contained herein.

40. Audit

Contractor agrees that the awarding agency or its delegatee will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the awarding department or its delegatee with any relevant information requested and shall permit the awarding agency or its delegatee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC / 10115 et seq., GC / 8546.7 and 2 CCR / et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the contract.

Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in PCC/10115.10.

41. Recycling Certification

The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Contract, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Section 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354.)

42. Antitrust Claims

- A. The Government Code Chapter on Antitrust claims contains the following definitions:
  - 1) Public purchase means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code).
  - 2) Public Purchasing Body means the State or the subdivision or agency making a public purchase. Government Code Section 4550 (b).
- B. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- C. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

- D. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. Government Code Section 4554.

43. Unenforceable Provision

In the event that any provision of this Contract is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Contract have force and effect and shall not be effected thereby.

44. Child Support Compliance Act

- A. The Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- B. The Contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

45. Union Organizing

- A. Contractor by signing this agreement hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement.
- 1) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
  - 2) No state funds received under this agreement will be used to assist, promote or deter union organizing.
  - 3) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.

- 4) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.
- 5) Contractor hereby certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.

46. Number and Type(s) of School Buses Purchased

The \_\_\_\_\_ School District is awarded \_\_\_\_\_ ( ) compressed natural gas (CNG) and \_\_\_\_\_ ( ) intermediate diesel powered school buses. The School District, at its discretion, may order school bus options directly from vendor and shall pay for such options. Payment of the bus shall be made according to the Work Statement included in this contract (Exhibit A).

47. Maintenance Facilities

The School District will provide adequate facilities and equipment to properly maintain the school buses received under this program, including the ability to lift the vehicles sufficiently to perform proper inspection and maintenance. If school district request CNG school buses, the school district facility shall be modified to conform to any regulation in place.

48. Data Collection

If required by the CEC, the School District will collect, process, compile, and send to the Commission the data identified in the included Work Statement (Paragraph III, Task 5) of Exhibit A. The School District will establish and maintain adequate procedures to collect and process this data.

49. Fuel

If the School District operates alternative fuel school buses, the school district is responsible to install and operate the alternative fueling station unless the fueling station is a public station. For school district awarded intermediate diesel, the school district is required to use low sulfur fuel recommended by the ARB and insure that the awarded buses will only use this fuel. All buses awarded under this program will use fuels, fluids, transmission oil, crankcase oil, lubricants, etc., as specified by manufacturers in each manufacturer's owner and service manuals.

50. Ownership Period.

School district shall assume full ownership of the school bus upon delivery and retain ownership for a period of five (5) years.